

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

CARL EDWARD WILLIS

PLAINTIFF

v.

CASE NO. 06-2069

FRANK ATKINSON, GUARD MOULDER,
GUARD JACOB FINK, GUARD RESTINE,
CPL. PAUL, CAPT. CONGER, and LT.
JACKSON

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Before the Court is Defendants' Motion for Summary Judgment (Doc. 21). On August 16, 2007, Plaintiff filed a Motion to Amend his Complaint (Doc. 35). On August 27, 2007, this Court GRANTED Plaintiff's Motion, allowing him until and including September 10, 2007 to file his amended complaint.

Given the leave to file an Amended Complaint, Defendants' Motion for Summary Judgment on the original Complaint in this case should now be moot. Accordingly, it is my recommendation that the Defendants' Motion for Summary Judgment (Doc. 21) be denied as moot. After Defendants have properly answered the Amended Complaint, they may be directed to file a subsequent motion for summary judgment if appropriate. For the same reasons, Plaintiff's Motion for Additional Time to Respond to the Motion for Summary Judgment (Doc. 36) should also be denied as moot.

The parties have ten days from receipt of the report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

IT IS SO ORDERED this 27th day of August 2007.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE